

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

TERRY KLOPFENSTEIN, et al.,)
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Plaintiffs,)
)
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vs.) Case No. 1:07CV47 CDP
)
)
P & C CREATIVE)
INVESTMENTS, LLC, et al.,)
)
)
Defendants.)

MEMORANDUM AND ORDER

Not surprisingly, the parties to this case cannot agree on a legal description of the properties that are the subject of this suit. Defendants provided proposed legal descriptions which they had prepared by a title examiner. Plaintiffs say this “seems” to have “obvious flaws,” and so demand that defendants have the property surveyed.

No survey will be required. The parties presented their evidence at the trial, and that evidence was sufficient for me to craft the legal descriptions myself, as they presented multiple exhibits that included the legal descriptions of the two disputed parcels together. They also presented sufficient evidence for me to know which part went with which parcel. I ordered the parties to provide an agreed upon legal description and form of order as a matter of convenience, because I

believed that if the parties could agree, I would not run the risk of making a mistake that might prolong this litigation.

Based on the evidence presented at trial, I will enter a quiet title decree. I have carefully examined the proposed decree quieting title filed by defendants [docket entry # 99] and find that it conforms to the evidence that was presented at trial. I will therefore adopt it, and it is entered separately.

The parties have filed a joint stipulation for dismissal without prejudice of all remaining counterclaims and cross claims, signed by counsel for all parties. Plaintiffs separately filed a motion to dismiss the claims remaining in their complaint without prejudice, and defendants have not objected to that motion. I will therefore grant all dismissals, and will deny the pending motion for summary judgment filed by Farmers National Title as moot.

This litigation is therefore now concluded. I will separately enter the decree quieting title, and separately enter a final judgment.

Accordingly,

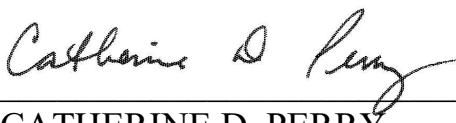
IT IS HEREBY ORDERED that plaintiffs' motion to dismiss without prejudice Counts I through IV and VI through VIII [#97] is granted.

IT IS FURTHER ORDERED that pursuant to the parties' joint stipulation [# 98] the counterclaims for lost profits and for unjust enrichment filed by the

P&C defendants against the Klopfensteins, and the crossclaim filed by the P & C defendants against Farmers Nation are dismissed without prejudice.

IT IS FURTHER ORDERED that the motion for summary judgment filed by Farmers National Title Insurance [#66] is denied as moot.

A separate Decree of Quiet Title and a separate Final Judgment in compliance with Fed. R. Civ. P. 58 are entered this same date.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 30th day of March , 2009.